

## UNITED STATES DISTRICT COURT

MAR - 5 2018

for the

Western District of North Carolina

US District Court  
Western District of NC

United States of America )

v. )

JOSHUA DANE KEENER )

Case No. 3:18mj 66

---

Defendant(s)

## CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of May 2016 in the county of Catawba in the  
Western District of North Carolina, the defendant(s) violated:

Code Section

Offense Description

18 U.S.C. Section 2252A(a)(5)(B)

Possession or Accessing with Intent to View Child Pornography

This criminal complaint is based on these facts:  
See attached Affidavit☒ Continued on the attached sheet.  
Complainant's signatureJames C. Burns, HSI Special Agent  
Printed name and title

Sworn to before me and signed in my presence.

Date: 03/05/2018  
Judge's signatureCity and state: Charlotte, North CarolinaDavid S. Cayer, U.S. Magistrate Judge  
Printed name and title

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA

IN THE MATTER OF THE  
COMPLAINT AND ARREST OF:

Joshua Dane Keener

Case No. 3:18mj 66

---

AFFIDAVIT IN SUPPORT OF A COMPLAINT AND ARREST OF  
Joshua Dane Keener

---

I, James C. Burns, Special Agent, Homeland Security Investigations, being duly sworn,  
state the following:

1. I am a "federal law enforcement officer" within the meaning of Title 18, United States Code, Section 2510(7), that is, an officer of the United States who is empowered to conduct investigations of, and make arrests for, the offenses enumerated in Title 8, 18, 19, 21, 31, United States Code and other related offenses.
2. I am a Special Agent with the United States Immigration and Customs Enforcement (ICE), Homeland Security Investigations (HSI), and before that with the U.S. Customs Service. I have been so employed from August 2001, to the present. I am currently assigned to the HSI Resident Agent in Charge (RAC) Charlotte, North Carolina office. As part of my official duties, I have conducted and participated in investigations relating to narcotics smuggling, human smuggling and trafficking, document fraud, and child pornography and child exploitation investigations.

3. I am investigating the possession of child pornography by Joshua KEENER. As will be shown below, there is probable cause to believe that Joshua KEENER has possessed child pornography, in violation of 18 U.S.C. §§ 2252A(a)(5)(B). I submit this Affidavit in support of a complaint and arrest of Joshua KEENER.
4. The information contained in this Affidavit is based on my personal participation in this investigation and from information provided to me by other law enforcement officers. Since this Affidavit is being submitted for the limited purpose of establishing probable cause to support the arrest of Joshua KEENER (hereinafter referred to as KEENER), I have not included each and every fact known to me concerning this investigation and have set forth only those facts that I believe are necessary for said purpose.

#### **STATUTORY AUTHORITY**

5. This investigation concerns alleged violations of 18 U.S.C. § 2252A(a)(5)(B) relating to material involving the sexual exploitation of minors.
  - a. 18 U.S.C. § 2252A(a)(5)(B) prohibits the knowing possession or access with intent to view material which contains an image of child pornography that has been mailed, shipped or transported using any means or facility of interstate or foreign commerce, shipped or transported in or affecting interstate or foreign commerce, or was produced using materials that have been mailed, shipped or transported in or affecting interstate or foreign commerce by any means, including by computer;

#### **DEFINITIONS**

6. The following definitions apply to this Affidavit:

- a. “Child Pornography” includes any visual depiction of sexually explicit conduct where (a) the production of the visual depiction involved the use of a minor engaged in sexually explicit conduct; (b) the visual depiction was a digital image, computer image, or computer-generated image that is, or is indistinguishable from, that of a minor engaged in sexually explicit conduct; or (c) the visual depiction has been created, adapted, or modified to appear that an identifiable minor is engaged in sexually explicit conduct. See 18 U.S.C. § 2256(8).
- b. “Computer” refers to “an electronic, magnetic, optical, electrochemical, or other high speed data processing device performing logical or storage functions, and includes any data storage facility or communications facility directly related to or operating in conjunction with such device.” See 18 U.S.C. § 1030(e)(1).
- c. “Minor” means any person under the age of 18 years. See 18 U.S.C. § 2256(1).
- d. “Sexually explicit conduct” refers to actual or simulated (a) sexual intercourse (including genital-genital, oral-genital, or oral-anal), whether between persons of the same or opposite sex; (b) bestiality; (c) masturbation; (d) sadistic or masochistic abuse; or (e) lascivious exhibition of the genitals or pubic areas of any person. See 18 U.S.C. § 2256(2)(A).

#### **PROBABLE CAUSE**

- 7. On or about May 23, 2016, Charleston, SC Police Department (CPD) investigators received information that an unknown subject contacted a person who posted an advertisement for escort services on Backpage.com. The escort, who made the report to the CPD, stated that the suspect asked how much she would charge to help the suspect sodomize his six year old niece. The suspect further claimed to be the child’s guardian.

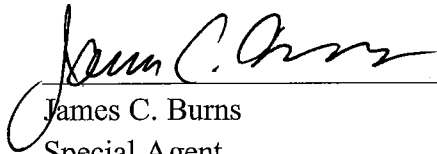
The suspect provided a telephone number in his email communications with the escort. Investigation revealed the number was a T-Mobile prepaid telephone number.

8. CPD investigators initiated an exigent circumstances request for the suspect's mobile number and a 911 ping location. T-Mobile's response provided enough information for HSI and SBI investigators to tentatively identify Joshua Dane KEENER as the suspect. T-Mobile also provided the location of where KEENER's phone was located, which was at the Deluxe Inn hotel in Hickory, NC.
9. On May 24, 2016, HSI and SBI investigators conducted a knock and talk at KEENER's hotel room at the Deluxe Inn in Hickory, NC. KEENER invited investigators into his room and gave a non-custodial interview whereby he admitted contacting the escort service in SC about molesting a child, but denied that he had a six-year old niece. KEENER also consented to allow investigators to search his mobile phone and child pornographic images were found saved to the device.
10. SBI and HSI investigators who searched KEENER's mobile phone in May 2016 reported seeing the following images saved thereon:
  - a. File named "IMG-20160108-WA0001.jpg" was an image depicting a pubescent female (between 13-14 years of age) wearing no underwear with her vagina exposed. The focal point of the image is the child's vagina. This image was located on KEENER'S phone with a path resolving back to the social media application, "WhatsApp". This image was manufactured in South Africa and depicts a minor that was communicating with Keener via various social media applications.


- b. File named "IMG-20160315-WA0001.jpg" was an image depicting a prepubescent female (a toddler approximately 2-4 years old) with an adult male's penis penetrating her vagina.
- c. File named "IMG-20160316-WA0001.jpg" was an image depicting a prepubescent female (no older than 5 years of age) lying on her back, legs in the air, with her vagina and anus being displayed in a lewd and lascivious manner.

**CONCLUSION**

- 11. Based on the aforementioned factual information, your Affiant respectfully submits that there is probable cause to believe that JOSHUA KEENER did possess child pornography in violation of 18 U.S.C. §§ 2252A(a)(5)(B).
- 12. Your Affiant, therefore, respectfully requests that the attached warrant be issued authorizing the arrest of JOSHUA KEENER.

  
\_\_\_\_\_  
James C. Burns  
Special Agent  
Homeland Security Investigations

Sworn and subscribed before me this 5th day of March 2018.

  
\_\_\_\_\_  
David S. Cayer  
UNITED STATES MAGISTRATE JUDGE  
WESTERN DISTRICT OF NORTH CAROLINA